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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,250	03/09/2004	Donald G. Hopson	45,024	5376
28309	7590	11/01/2004	EXAMINER	
BOWERS HARRISON LLP GARY K. PRICE, ESP. 25 RIVERSIDE DRIVE PO BOX 1287 EVANSVILLE, IN 47706-1287			PECHHOLD, ALEXANDRA K	
		ART UNIT		PAPER NUMBER
		3671		
DATE MAILED: 11/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/797,250	HOPSON, DONALD G. <i>ST</i>
	Examiner	Art Unit
	Alexandra K Pechhold	3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 09 March 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 3-13 is/are allowed.

6)  Claim(s) 1 and 2 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_.  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Objections***

1. Claims 1 and 2 are objected to because of the following informalities: the applicant sets forth "at least one upper hydraulic cylinder" in line 8, and should therefore maintain this continuity. Lines 8-9, 10, and 16 should not refer to "the upper hydraulic cylinder(s)", but instead "the at least one upper hydraulic cylinder". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mazzarins (US 3,648,782).**

3. Regarding claim 1, Mazzarins discloses a rear blade mounting apparatus comprising:

- a frame, seen as frame member (22) in Figs. 1 and 2, having first and second support arms pivotally mounted to the rear portion of the bulldozer (10), seen as arms (26), (28) mounted at ball members (30), (32) in Fig. 2,
- a blade, seen as moldboard (24), having first and second upper end portions disposed adjacent an upper edge of the blade at opposite ends of the blade and

a midway pivot point adjacent to a midway portion of the blade, seen at ball and socket joint (25) in Fig. 2,

- at least one upper hydraulic cylinder, seen as cylinder (40), wherein one end of the cylinder (40) is pivotally attached to the rear portion of the bulldozer (10) as Figs. 1 and 2 illustrate, and an opposite end of the upper cylinder (40) is pivotally attached to the upper edge of the blade, seen at ball joint (55) in Fig. 1,
- a pair of lower cylinders, seen as cylinders (42), wherein one end of each cylinder (42) is pivotally attached to the rear portion of the bulldozer (10) below the upper cylinder (40) (as shown in Figs. 1 and 5), and opposite ends of the lower cylinders (42) are pivotally attached to the blade at ball joints (60), and
- operating means to control the cylinders (40) and (42), described in column 3, lines 22-45.

Mazzarins fails to disclose the opposite ends of the lower cylinders, seen as (42), as attached to the *midway* portions of the blade. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the location of the opposite ends of the cylinders (42) to be attached to midway portions of the blade, since the expanding and contracting movement of the cylinders (42) to affect the pitch of the moldboard (24) as described in column 3, lines 23-45 can still be realized with the lower cylinders (24) pivotally attached to the midway portion of the blade.

Regarding claim 2, Mazzarins discloses this telescopic movement of cylinders (40, 42) in column 3, lines 23-45.

***Allowable Subject Matter***

4. Claims 3-13 are allowed.

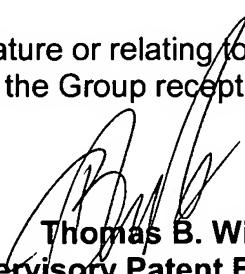
***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will  
Supervisory Patent Examiner  
Group 3600

AKP  
10/25/04